

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA

Civil Action No. 3:12-cv-170

JEAN-MARIE BEFORD,

Plaintiff,

v.

COMPASS GROUP USA, INC.

Defendant.

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant Compass Group USA, Inc. (“Compass”), by counsel, hereby files this Notice of Removal of the above-captioned action currently pending in the North Carolina General Court of Justice, Superior Court Division, Mecklenburg County, Civil Action No. 11-CVS-16206 (the “State Court Action”). The grounds for removal are as follows:

1. Plaintiff commenced the State Court Action on September 14, 2011.
2. On October 14, 2011, Defendant filed a Motion to Dismiss Plaintiff’s Complaint pursuant to Rule 12(b)(6) of the North Carolina Rule of Civil Procedure.
3. In her initial Complaint, Plaintiff alleged a claim pursuant to the North Carolina Wage and Hour Act, N.C. Gen. Stat. § 95-25.1 *et. seq.* (“NC Wage and Hour Act”); a claim for wrongful discharge in violation of the public policy set forth in the NC Wage and Hour Act; and claims for conversion and unjust enrichment.
4. On March 12, 2011, Plaintiff filed and served her Amended Complaint. (*See* Exhibit 1)

5. In her Amended Complaint, in addition to claims previously alleged in her initial Complaint, Plaintiff also alleges claims pursuant to the Fair Labor Standards Act, 29 U.S.C. § 201 *et. seq.* (“FLSA”). (*See* Exhibit 1), ¶¶ 34-40, 49-57.

6. This Court has original jurisdiction over Plaintiff’s FLSA claims contained in her Amended Complaint because the claims arise under federal law. This Court has supplemental jurisdiction over the claims in Plaintiff’s Amended Complaint arising under state law pursuant to 28 U.S.C. § 1367. Therefore, removal is appropriate under 28 U.S.C. § 1441(a).

7. Thirty days have not elapsed since Defendant received notice that this case is one which is removable and Defendant, by its counsel and duly authorized agent, does hereby consent to the removal of the State Court Action to this Court.

8. In addition to Plaintiff’s Amended Complaint (*See* Exhibit 1), Defendant files herewith in this Court a copy of Application and Order Extending Time to File Complaint, the Summons and Complaint, Defendants’ Acceptance of Service, Plaintiff’s Affidavit of Service, Notice of Hearing, Amended Notice of Hearing, Second Amended Notice of Hearing, Defendants’ Motion to Dismiss Plaintiff’s Complaint, Defendants’ Memorandum of Law in Support of its Motion to Dismiss Plaintiff’s Complaint, Plaintiff’s Memorandum of Law in Opposition to Defendants’ Motion to Dismiss, and Plaintiff’s Amended Complaint (*See* Exhibit 2) which are the only process, pleadings, and orders in the State Court Action, as well as a copy of the Notice of Removal to Federal Court being filed with the Clerk of Court for the North Carolina General Court of Justice, Superior Court Division, Mecklenburg County (*See* Exhibit 3).

9. Pursuant to 28 U.S.C. § 1446(d), a written notice of the filing of this Notice of Removal is being served on Plaintiff, the only adverse party, and a copy of the Notice is being

filed with the Clerk of Court for the North Carolina General Court of Justice, Superior Court Division, Mecklenburg County.

Based on the foregoing, Defendant, by counsel, hereby removes the State Court Action to this Court.

This the 13th day of March 2012.

Respectfully submitted,

/s/ Meredith A. Pinson

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ATTORNEYS FOR DEFENDANT

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA

Civil Action No. 3:12-cv-170

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| JEAN-MARIE BEFORD, |) |
| |) |
| Plaintiff, |) |
| |) |
| v. |) |
| |) |
| COMPASS GROUP USA, INC., |) |
| |) |
| Defendant. |) |
| _____ |) |

CERTIFICATE OF SERVICE

I hereby certify that on March 13, 2012, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following attorneys for plaintiff:

Margaret Behringer Maloney
Tamara L. Huckert
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Charlotte, North Carolina 28204

/s/ Meredith A. Pinson
Attorney